

**2019 No. 517**

**EXITING THE EUROPEAN UNION**

**FAMILY PROCEEDINGS**

**SENIOR COURTS OF ENGLAND AND WALES**

**FAMILY COURT, ENGLAND AND WALES**

**MENTAL CAPACITY, ENGLAND AND WALES**

**The Family Procedure Rules 2010 and Court of Protection Rules  
2017 (Amendment) (EU Exit) Regulations 2019**

*Sift requirements satisfied* 26th February 2019

*Made* - - - - 7th March 2019

*Laid before Parliament* 8th March 2019

*Coming into force in accordance with regulation 1*

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018(a) (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of that Act.

**Part 1**

**Introduction**

**Citation, commencement, extent and interpretation**

**1.**—(1) These Regulations may be cited as the Family Procedure Rules 2010 and Court of Protection Rules 2017 (Amendment) (EU Exit) Regulations 2019 and come into force on exit day.

(2) These Regulations extend to England and Wales.

(3) A reference in these Regulations to a rule or Part by number alone—

- (a) in Part 2 of these Regulations is a reference to the rule or Part so numbered in the Family Procedure Rules 2010(a); and
- (b) in Part 3 of these Regulations is a reference to the rule or Part so numbered in the Court of Protection Rules 2017(b).

## Part 2

The Family Procedure Rules 2010: amendment and transitional and saving provision

### **Amendment of the Family Procedure Rules 2010**

2. The Family Procedure Rules 2010 are amended as set out in regulations 3 to 21.

### **Amendment of Part 2**

3.—(1) Part 2 (application and interpretation of the rules)(c) is amended as follows.

(2) In rule 2.3(1)—

- (a) in the definition of “child”, in paragraph (b) of that definition omit “the Council Regulation,”;
- (b) omit the definitions of “the Council Regulation”;
- (c) in the definition of “incoming protection measure”, omit “the United Kingdom or”;
- (d) omit the definition of “the Maintenance Regulation”; and
- (e) omit the definition of “the Service Regulation”.

### **Amendment of Part 3A**

4.—(1) Part 3A (vulnerable persons: participation in proceedings and giving evidence) is amended as follows.

(2) In rule 3A.1, in the definition of “child”, in paragraph (b) of that definition omit “Article 11 of the Council Regulation,”.

### **Amendment of Part 5**

5.—(1) Part 5 (forms and start of proceedings)(d) is amended as follows.

(2) In rule 5.1, omit paragraph (5).

(3) In rule 5.3—

- (a) in paragraph (3), omit “under Article 56 of the Maintenance Regulation, or”;
- (b) in the first set of words in parentheses at the end of the rule, omit “and the Maintenance Regulation”.

### **Amendment of Part 6**

6.—(1) Part 6 (service) is amended as follows.

(2) In rule 6.11—

- (a) in the heading, omit “or in any EEA state”;
- (b) omit paragraph (2); and

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(a) S.I. 2010/2955.

(b) S.I. 2017/1035.

(c) Relevant amendments were made to Part 2 by S.I. 2011/1328 and S.I. 2014/3296.

(d) Relevant amendments were made to Part 5 by S.I. 2011/1328 and S.I. 2012/2806.

- (c) in the words in parentheses at the end of the rule, omit “and “EEA state” is defined in Schedule 1 to the Interpretation Act 1978”.
- (3) In rule 6.26—
  - (a) in paragraph (2)(b), omit “either” and “or any other EEA state”; and
  - (b) omit the words in parentheses following paragraph (2)(b).
- (4) In rule 6.42(2)(b), omit “Member State or”.
- (5) Omit rule 6.43(3)(a)(ii).
- (6) Omit rule 6.44.
- (7) In rule 6.45, omit paragraph (4).
- (8) In rule 6.47, omit the words in parentheses at the end of the rule.

**Amendment of Part 7**

7.—(1) Part 7 (procedure for applications in matrimonial and civil partnership proceedings) is amended as follows.

- (2) In rule 7.27, omit paragraphs (2) to (4).

**Amendment of Part 9**

8.—(1) Part 9 (applications for a financial remedy)(a) is amended as follows.

- (2) In rule 9.3(3)—
  - (a) omit sub-paragraph (a); and
  - (b) in sub-paragraph (b)—
    - (i) for “Sub-paragraphs (a) and (aa) do” substitute “Sub-paragraph (aa) does”;
    - (ii) omit “the Maintenance Regulation or”; and
    - (iii) omit “, as the case may be,”.
- (3) Omit rule 9.9B(3)(b)(iii).
- (4) In rule 9.12(4), omit “the Maintenance Regulation or”.
- (5) In rule 9.14—
  - (a) in paragraph (2ZA), omit “Article 56 of the Maintenance Regulation or”; and
  - (b) in paragraph (2A)—
    - (i) omit sub-paragraph (a); and
    - (ii) in the closing words, for “that Regulation or that Convention, as appropriate,” substitute “that Convention”.
- (6) In rule 9.18—
  - (a) omit paragraph (A1)(a)(iv); and
  - (b) in paragraph (5), omit “the Maintenance Regulation or”.
- (7) In rule 9.19(2A), omit sub-paragraph (a).
- (8) Omit rule 9.22.
- (9) In rule 9.26A—
  - (a) in paragraph (1), omit sub-paragraphs (a) to (d); and
  - (b) omit paragraph (6).
- (10) In rule 9.26AA—
  - (a) in paragraph (1), omit “Article 58 of the Maintenance Regulation or”;

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(a) Relevant amendments were made to Part 9 by S.I. 2011/1328, S.I. 2012/2806 and S.I. 2014/667.

- (b) in paragraph (2), omit “Article 56 of the Maintenance Regulation or”; and
- (c) in the words in parentheses at the end of the rule, omit “and the Maintenance Regulation”.

### **Amendment of Part 12**

**9.**—(1) Part 12 (proceedings relating to children except parental order proceedings and proceedings for applications in adoption, placement and related proceedings)(a) is amended as follows.

(2) In rule 12.1(1)—

- (a) in sub-paragraph (f), omit “the Council Regulation or”; and
- (b) in the second set of words in parentheses at the end of the paragraph, omit “the Council Regulation or”.

(3) In the Table in rule 12.3(1), in the 51st row, in the first column, omit “Article 15 of the Council Regulation or”.

(4) In rule 12.14, omit paragraph (10) and the words in parentheses following it.

(5) In the heading to Chapter 6 of the Part, omit “THE COUNCIL REGULATION,”.

(6) In rule 12.43(b), omit “the Council Regulation or”.

(7) In the heading to Section 2 of Chapter 6 of the Part, omit “the Council Regulation and”.

(8) In rule 12.58—

- (a) in paragraph (1)—
  - (i) in the definition of “domestic Central Authority”, omit paragraph (a) of that definition;
  - (ii) omit the definition of “judgment”;
  - (iii) omit the definition of “Member State”;
  - (iv) in the definition of “parental responsibility”, omit paragraph (a) of that definition; and
  - (v) omit the definition of “seised” and the “and” preceding it; and
- (b) in paragraph (2)—
  - (i) omit “Member State or”; and
  - (ii) omit “authorities within the meaning of “court” in Article 2(1) of the Council Regulation, and”.

(9) Omit rules 12.59 and 12.60.

(10) In rule 12.61—

- (a) in the heading, omit “Article 15 of the Council Regulation or under”;
- (b) in paragraph (1), omit “Member State or”;
- (c) in paragraph (3) omit—
  - (i) “Member State or”;
  - (ii) “the Council Regulation or”; and
  - (iii) “(as appropriate)”;
- (d) In paragraph (5), omit “Member State or”.

(11) In rule 12.62—

- (a) in paragraph (1)—
  - (i) in the opening words, omit “under Article 15 of the Council Regulation or”;
  - (ii) in sub-paragraph (a), omit “Member State or”; and

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(a) Relevant amendments to Part 12 were made by S.I. 2012/2046.

- (iii) in sub-paragraph (b), omit “another Member State or”; and
  - (b) in paragraph (3), for the words after “respondents” to the end substitute “not less than 42 days before the hearing of the application”.
- (12) In rule 12.63—
- (a) in the heading, omit “another Member State or”;
  - (b) in paragraph (1)—
    - (i) omit “another Member State or”; and
    - (ii) omit “Article 15(2)(c) of the Council Regulation or under”.
- (13) In rule 12.64(1), omit “Article 15 of the Council Regulation or”.
- (14) In rule 12.65—
- (a) in the heading, omit “Article 15 of the Council Regulation or”;
  - (b) in paragraph (1), omit—
    - (i) “another Member State or”;
    - (ii) “Article 15 of the Council Regulation, or”; and
    - (iii) “(as the case may be)”;
  - (c) in paragraph (4), omit “Member State, or”.
- (15) In rule 12.66, omit “Member State or” where those words occur in—
- (a) the heading; and
  - (b) paragraphs (1), (2) and (4).
- (16) In rule 12.67—
- (a) in the heading, omit “the Council Regulation or”; and
  - (b) in the rule, omit “Member State or”.
- (17) In rule 12.68(1), omit “any of Articles 16 to 18 of the Council Regulation it does not or may not have jurisdiction to hear and application, or that under Article 19 of the Council Regulation or”.
- (18) In rule 12.69—
- (a) in paragraph (1), omit sub-paragraph (a); and
  - (b) omit “Member State or” where those words occur in paragraphs (2) and (3).
- (19) In rule 12.70—
- (a) in the heading, omit “Member State or”;
  - (b) in paragraph (1), omit “Member State under Article 56 of the Council Regulation or another”; and
  - (c) in paragraph (4), omit “Member”.

#### **Amendment of Part 14**

**10.**—(1) Part 14 (procedure for applications in adoption, placement and related proceedings) is amended as follows.

- (2) In rule 14.19, omit paragraph (2).

#### **Amendment of Part 17**

**11.**—(1) Part 17 (statements of truth) is amended as follows.

- (2) In rule 17.1(1), omit sub-paragraph (b).
- (3) In rule 17.2(10), omit sub-paragraph (a).

### **Amendment of Part 20**

- 12.**—(1) Part 20 (interim remedies and security for costs) is amended as follows.
- (2) In rule 20.7—
- (a) omit paragraph (2)(a)(ii) and the “but” preceding it; and
  - (b) omit the second set of words in parentheses at the end of the rule.

### **Amendment of Part 21**

- 13.**—(1) Part 21 (miscellaneous rules about disclosure and inspection of documents) is amended as follows.
- (2) In rule 21.2, omit the words in parentheses at the end of the rule.

### **Amendment of Part 22**

- 14.**—(1) Part 22 (evidence) is amended as follows.
- (2) In rule 22.8, omit the words in parentheses at the end of the rule.

### **Amendment of Part 23**

- 15.**—(1) Part 23 (miscellaneous rules about evidence) is amended as follows.
- (2) In rule 23.4, omit the words in parentheses at the end of the rule.

### **Amendment of Part 24**

- 16.**—(1) Part 24 (witnesses, depositions generally and taking of evidence in member states of the European Union) is amended as follows.
- (2) For the title to the Part, substitute “WITNESSES AND DEPOSITIONS GENERALLY”.
- (3) In each of rules 24.1, 24.2, 24.4, 24.7, 24.9 and 24.10, omit the words in parentheses at the end of the rule.
- (4) In rule 24.12—
- (a) in paragraph (1), for the words after “who is” to the end substitute “out of the jurisdiction”; and
  - (b) omit the words in parentheses at the end of the rule.
- (5) Omit Chapter 2 of the Part, including rules 24.15 and 24.16.

### **Amendment of Part 27**

- 17.**—(1) Part 27 (hearings and directions appointments) is amended as follows.
- (2) In rule 27.4(7)—
- (a) for “a European regulation or” substitute “an”; and
  - (b) omit “regulation or”.

### **Amendment of Part 31**

- 18.**—(1) Part 31 (registration of orders under the Council Regulation, the Civil Partnership (Jurisdiction and Recognition of Judgments) Regulations 2005, the Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgments) Regulations 2014 and under the Hague Convention 1996)(a) is amended as follows.

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(a) Relevant amendments were made to Part 31 by S.I. 2014/524.

(2) In the title to the Part, omit “THE COUNCIL REGULATION, THE CIVIL PARTNERSHIP (JURISDICTION AND RECOGNITION OF JUDGMENTS REGULATIONS 2005, THE MARRIAGE (SAME SEX COUPLES) (JURISDICTION AND RECOGNITION OF JUDGMENTS) REGULATIONS 2014 AND UNDER”.

(3) In rule 31.1, omit paragraphs (a), (c) and (d).

(4) In rule 31.2, in paragraph (1)—

(a) in sub-paragraph (a), omit paragraphs (i), (ii) and (iv) and the “or” preceding paragraph (iv);

(b) omit sub-paragraphs (b), (ba) and (c);

(c) in sub-paragraph (d), omit “, other than a Member State within the meaning of (c) above,”; and

(d) omit sub-paragraph (e)(i).

(5) In rule 31.3—

(a) in paragraph (1), omit “, or under rule 31.20 for rectification of a certificate issued under Articles 41 or 42,”;

(b) omit paragraph (2); and

(c) in paragraph (3), omit “the Jurisdiction and Recognition of Judgments Regulations or the 2014 Regulations”.

(6) In rule 31.4, in paragraph (2), for “Except for an application under rule 31.7, an” substitute “An”.

(7) In rule 31.5—

(a) for “Except as regards a copy of a judgment required by Article 37(1)(a) of the Council Regulation, where” substitute “Where”; and

(b) omit paragraph (2).

(8) In rule 31.6, in paragraph (1), omit “(subject to the requirements of the Council Regulation)”.

(9) Omit rule 31.7.

(10) In rule 31.8—

(a) in paragraph (1), omit—

(i) “Member State, or a”; and

(ii) “, except where rule 31.7 applies”;

(b) in paragraph (3), in sub-paragraph (b)—

(i) at the end of paragraph (i), omit “or”; and

(ii) omit paragraph (ii);

(c) in paragraph (4), for the words from “In cases” to “apply, the”, substitute “The”;

(d) omit paragraph (6);

(e) in paragraph (7), for the words from “If” to “not, the”, substitute “The”; and

(f) omit paragraph (8).

(11) In rule 31.9, omit “Member State or”.

(12) In rule 31.11, in paragraph (4), omit—

(a) “Article 28(2) of the Council Regulation or under”; and

(b) “, as the case may be”.

(13) In rule 31.12, omit—

(a) “Article 21(3) of the Council Regulation,”; and

(b) “regulation 7 of the Jurisdiction and Recognition of Judgments Regulations or regulation 5 of the 2014 Regulations (as the case may be)”.

- (14) In rule 31.14, in paragraph (3), omit—
  - (a) “Article 21(3) of the Council Regulation,”; and
  - (b) “, regulation 7 of the Jurisdiction and Recognition of Judgments Regulations or regulation 5 of the 2014 Regulations (as the case may be)”.
- (15) In rule 31.15—
  - (a) in paragraph (1)(b), omit “Member State, or a”;
  - (b) omit paragraph (2); and
  - (c) in paragraph (3), omit the words from “, in a case” to “does not”.
- (16) In rule 31.16, in paragraph (1)(a), omit “Member State or”.
- (17) In rule 31.17, in the words in parentheses at the end of the rule, omit “, including service in accordance with the Service Regulation,”.
- (18) In rule 31.18, in paragraph (1), omit “, or for a certificate under Articles 39, 41 or 42 of the Council Regulation,”.
- (19) Omit rules 31.19, 31.20 and 31.21.
- (20) In rule 31.22, omit “Article 20 of the Council Regulation or”.

#### **Amendment of Part 34**

- 19.—**(1) Part 34 (reciprocal enforcement of maintenance orders)(a) is amended as follows.
- (2) In rule 34.1—
  - (a) in paragraph (2), omit the definitions of—
    - (i) “the 1982 Act”;
    - (ii) “the 1988 Convention”;
    - (iii) “the Judgments Regulation”;
    - (iv) “the Lugano Convention”;
  - (b) in paragraph (5), omit sub-paragraphs (a) to (d).
- (3) In rule 34.2—
  - (a) in paragraph (2), omit “and section 5(2) of the 1982 Act”; and
  - (b) in paragraph (3), omit “Article 30 of the Maintenance Regulation for a declaration of enforceability of a maintenance order or under”.
- (4) In rule 34.3, omit “the Maintenance Regulation or”.
- (5) In the heading to Chapter 3 of the Part, for the words after “UNDER” substitute “THE 2007 HAGUE CONVENTION”.
- (6) In rule 34.28A—
  - (a) in paragraph (1)—
    - (i) omit sub-paragraph (a)(i); and
    - (ii) omit sub-paragraph (c); and
  - (b) omit paragraph (2).
- (7) In the heading to Section 1 of Chapter 3 of the Part, for the words after “made in” substitute “a State bound by the 2007 Hague Convention”.
- (8) Omit rule 34.29.
- (9) In rule 34.30—
  - (a) in paragraph (2)—

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(a) Relevant amendments were made to Part 34 by S.I. 2011/1328, S.I. 2012/679 and S.I. 2012/2806.



- (i) omit sub-paragraphs (a) to (d); and
  - (ii) in sub-paragraph (e), omit “other than a Member State of the European Union”; and
  - (b) in paragraph (6), omit sub-paragraphs (a) and (b).
- (10) In rule 34.31, in paragraph (1), omit sub-paragraphs (a) to (d).
- (11) In rule 34.32, in paragraph (1), for the words after “accordance with” up to and including “registration” substitute “Article 23 of the 2007 Hague Convention”.
- (12) In rule 34.34—
- (a) in paragraph (1), for the words after “competent court in” to the end substitute “a State bound by the 2007 Hague Convention”; and
  - (b) omit paragraph (3).
- (13) In rule 34.36A—
- (a) in paragraph (a), omit sub-paragraphs (i) to (iv);
  - (b) in paragraph (b), omit sub-paragraphs (i) to (iv); and
  - (c) in paragraph (c), omit sub-paragraphs (i) to (iv).
- (14) In rule 34.36B—
- (a) in paragraph (1), omit “Article 58 of the Maintenance Regulation, or”;
  - (b) in paragraph (2), omit “Article 56 of the Maintenance Regulation or”;
  - (c) in the words in parentheses at the end of the rule, omit “and the Maintenance Regulation”.
- (15) Omit rule 34.36C.
- (16) In the heading to Section 2 of Chapter 3 of the Part, omit “or a Member State of the European Union”.
- (17) In rule 34.38—
- (a) in paragraph (1), for the words after “the UK” up to and including “Lugano Convention, or by” substitute “or another Contracting State to”;
  - (b) in paragraph (2)(c), omit “the 1982 Act, the Judgments Regulation, the Maintenance Regulation or”;
  - (c) in paragraph (3), omit “the 1982 Act, the Judgments Regulation, the Maintenance Regulation or”;
  - (d) for paragraph (7) substitute—
    - “(7) Any request by the family court for the taking or providing of evidence by a court in a State bound by the 2007 Hague Convention for the purposes of proceedings to which that Convention applies, or by a court in another part of the United Kingdom, shall be communicated in writing to the court in question.”; and
  - (e) omit paragraph (8) and the words in parentheses following it.
- (18) In rule 34.39—
- (a) for paragraph (1), substitute—
    - “(1) A person who wishes to enforce a maintenance order obtained in the family court in a State bound by the 2007 Hague Convention must apply for a certified copy of the order and, where required by Practice Direction 34A, a certificate giving particulars relating to the judgment and proceedings in which it was given.”;
  - (b) omit paragraph (2); and
  - (c) in paragraph (5)—
    - (i) omit sub-paragraphs (b)(i) to (iv); and
    - (ii) in sub-paragraph (b)(v), omit “(other than a Member State of the European Union)”.
- (19) In rule 34.40—
- (a) in paragraph (1), omit—

- (i) “and the Maintenance Regulation”;
  - (ii) “a Member State of the European Union or”; and
  - (iii) “(other than a Member State of the European Union)”; and
- (b) in paragraph (2), omit sub-paragraph (a).

### **Revocation of Part 35**

**20.** Part 35 (Mediation Directive) is revoked.

### **Amendment of Part 38**

**21.—**(1) Part 38 (recognition and enforcement of protection measures)(a) is amended as follows.

(2) In rule 38.1—

(a) in paragraph (1)—

- (i) omit “mutual” before “recognition”;
- (ii) insert “incoming” before “protection measures”; and
- (iii) omit the words after “protection measures” to the end; and

(b) in paragraph (2), omit the definitions of—

- (i) “Article 5 certificate”;
- (ii) “Article 8 notice”; and
- (iii) “outgoing protection measure”.

(3) Omit Chapter 2 of the Part, including rules 38.2 to 38.11.

(4) In rule 38.12, after “Regulation” insert “(as it has effect in the law of England and Wales)”.

(5) In rule 38.13, in paragraph (2), for “in a Member State of the European Union other than the United Kingdom or in a country outside the European Union” substitute “outside the United Kingdom”.

(6) In rule 38.14, after “Regulation” insert “(as it has effect in the law of England and Wales)”.

(7) In rule 38.15—

- (a) in paragraph (1), omit “the United Kingdom or”; and
- (b) in paragraph (3), omit “other”.

### **Transitional and saving provision – Part 6**

**22.—**(1) Where before exit day, pursuant to rule 6.11, a solicitor acting for the respondent has notified the business address of that solicitor in an EEA state outside the United Kingdom as the address at which that solicitor is instructed to accept service of the application, the application, if not served before exit day, must on or after exit day be served at that address notwithstanding the changes made by these Regulations.

(2) Where before exit day a party to proceedings has given, as the address at which that party may be served with documents relating to those proceedings, the business address of a solicitor in any EEA State outside the United Kingdom—

- (a) that address will continue on and after exit day to be that party’s address for service unless and until that party elects to change the address for service; and
- (b) if that party elects on or after exit day to change the address for service, the new address for service may be any address for service permitted by rule 6.26 as in force immediately before exit day.

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(a) Part 38 was inserted by S.I. 2014/3296.

(3) In this regulation, “EEA State” has the meaning it had for the purposes of Part 6 immediately before exit day.

(4) Where before exit day an applicant has filed the documents referred to in rule 6.44(2), but the action required by rule 6.44(3) has not been taken by exit day, the court may treat the request for service of the documents in question as a request for service pursuant to rule 6.45(1) or (2) as appropriate.

### **Transitional and saving provision – Part 9 and Part 12**

**23.**—(1) Where in relation to any proceedings the relevant saving provision applies, the relevant rules continue to apply on and after exit day for the purposes of those proceedings as if the amendments made to those rules by these Regulations had not been made.

(2) In paragraph (1)—

- (a) “the relevant saving provision” means regulation 8 of the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019(a); and
- (b) “the relevant rules” means Part 9, or Part 12, and the definitions of “the Council Regulation” and “the Maintenance Regulation” in Part 2, as applicable.

(3) Where before exit day the court has issued an order on non-return as referred to in Article 11(6) of the Council Regulation, rule 12.59 continues to apply on and after exit day if the documents referred to in that rule have not been transmitted as required by that rule by exit day.

(4) Where by virtue of paragraph (1) rule 12.60 continues to apply on and after exit day in relation to any proceedings, the court may treat any application for an order requiring the return of the child as an application for an order which the court has jurisdiction to make by virtue of the 1996 Hague Convention.

(5) Where by virtue of paragraph (1) rules 12.61 to 12.66 or any of them continue to apply on and after exit day in relation to any proceedings involving a request for transfer of jurisdiction under Article 15 of the Council Regulation as if the amendments made to them by this Regulation had not been made, the court may treat the request as one made or to be made under Article 8 or Article 9 (as the case may be) of the 1996 Hague Convention and direct accordingly.

(6) Where by virtue of paragraph (1) rule 12.70 continues to apply on or after exit day as if the amendments made to it by these Regulations had not been made, the court may treat the request which is contemplated as a request to be made under Article 33 of the 1996 Hague Convention.

(7) In paragraphs (3) to (6)—

- (a) “the 1996 Hague Convention” has the meaning given to it by rule 2.3; and
- (b) “the Council Regulation” has the meaning given to it by rule 2.3 as in force immediately before exit day.

### **Transitional and saving provision – Part 20**

**24.** Where an application was made before exit day, rule 20.7 applies for the purposes of the court’s power to make an order for security for costs in relation to that application as if the amendment made to that rule by these Regulations had not been made.

### **Transitional and saving provision – Part 24**

**25.** If before exit day a court has made an order for the issue or submission of a request under rule 24.16 but the further action required by that rule has not been taken by exit day, the court may treat the order as one for issue of a letter of request under rule 24.12 and proceed accordingly.

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(a) SI 2019/494.

### **Transitional and saving provision – Part 31**

**26.**—(1) Where in relation to any proceedings under Part 31 the relevant saving provision applies, Part 31 continues to apply on and after exit day for the purposes of those proceedings as if the amendments made to that Part by these Regulations had not been made.

(2) In this regulation, “the relevant saving provision” means, as applicable—

- (a) regulation 8 of the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019; or
- (b) regulation 7 of the Civil Partnership and Marriage (Same Sex Couples) (Jurisdiction and Judgments) (Amendment etc.) (EU Exit) Regulations 2019(a).

### **Transitional and saving provision – Part 34**

**27.**—(1) Where in relation to any proceedings under Part 34 the relevant saving provision applies, Part 34 continues to apply on and after exit day for the purposes of those proceedings as if the amendments made to that Part by these Regulations had not been made.

(2) In this regulation, “the relevant saving provision” means regulation 8 of the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019.

### **Transitional and saving provision – Part 35**

**28.**—(1) Where an application under rule 35.2(1) as then in force (for the content of a written agreement resulting from mediation of a relevant dispute to be made enforceable by being made the subject of a consent order) was made before exit day, rule 35.2 continues to apply for the purposes of that application on and after exit day as if the amendments made to Part 35 by these Regulations had not been made.

(2) In relation to a mediation to which the Cross-Border Mediation (EU Directive) Regulations 2011(b) applied before exit day, rules 35.1 and 35.3 to 35.4 continue to apply on and after exit day, so far as relevant in relation to mediation evidence relating to that mediation, as if the amendments made to Part 35 by these Regulations had not been made.

## **Part 3**

The Court of Protection Rules 2017: amendment and transitional and saving provision

### **Amendment of the Court of Protection Rules 2017**

**29.** The Court of Protection Rules 2017 are amended as set out in regulations 30 to 32.

### **Amendment of Part 6**

**30.**—(1) Part 6 (service of documents) is amended as follows.

- (2) In the table of contents for the Part, omit the entry for rule 6.15.
- (3) In rule 6.11, in paragraph (2), omit the definitions of—
  - (a) “Member State”; and
  - (b) “the Service Regulation”.
- (4) In rule 6.13, in paragraph (2)(b), omit “Member State or”.
- (5) In rule 6.14, omit paragraph (3)(a)(ii).
- (6) Omit rule 6.15.

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(a) S.I. 2019/495.

(b) S.I. 2011/1133.

(7) In rule 6.16, omit paragraph (4) and the first set of words in parentheses after it.

(8) In rule 6.18, omit the words in parentheses at the end of the rule.

#### **Amendment of Part 10**

**31.**—(1) Part 10 (applications within proceedings) is amended as follows.

(2) In rule 10.7(2), for sub-paragraph (a) substitute—

“(a) the applicant is resident out of the jurisdiction;”.

#### **Amendment of Part 14**

**32.**—(1) Part 14 (admissions, evidence and depositions) is amended as follows.

(2) In the table of contents for the Part, omit the entries for rule 14.21 and rule 14.22.

(3) In rule 14.20(1), omit “, 14.22”.

(4) Omit rule 14.21.

(5) Omit rule 14.22.

(6) In rule 14.23(1), for “who is—” and sub-paragraphs (a) and (b) substitute “who is out of the jurisdiction”.

#### **Transitional and saving provision**

**33.**—(1) Where before exit day an application was served under the Service Regulation on a respondent in a Member State, rule 6.13(2) applies for the purposes of the period for filing an acknowledgment of service as if the amendment to that rule made by these Regulations had not been made.

(2) Where before exit day an applicant has filed the documents referred to in rule 6.15(2), but the action required by rule 6.15(3) has not been taken by exit day, the court may treat the request for service of the documents in question as a request for service pursuant to rule 6.16(1) or (2) as appropriate.

(3) Where an application was made before exit day, rule 10.7 applies for the purposes of the court’s power to make an order for security for costs in relation to that application as if the amendment made to that rule by these Regulations had not been made.

(4) Rule 14.20(1) has effect, where a deposition was ordered before exit day, as if the amendment made to it by these Regulations had not been made.

(5) If before exit day a court has made an order for the issue or submission of a request under rule 14.22 but the further action required by that rule has not been taken by exit day, the court may treat the order as one for the issue of a letter of request under rule 14.23 and proceed accordingly.

7th March 2019

*Lucy Frazer*  
Parliamentary Under Secretary of State  
Ministry of Justice

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) (the 2018 Act) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular paragraph g of section 8(2)) arising from the withdrawal of the United Kingdom from the European Union.

The changes made by these Regulations are consequential on provision made in a number of other statutory instruments made under the 2018 Act. The Family Procedure Rules 2010 and the Court of Protection Rules 2017 make provision in a number of places to govern the procedure for proceedings under or related to certain EU instruments. Those EU instruments, as retained EU law under the 2018 Act, are being revoked or amended by other Regulations made under the 2018 Act, and it is accordingly necessary in consequence to remove or amend the corresponding provisions in the Rules. Those other Regulations include transitional and saving provisions the effect of which is that in some circumstances the operation of EU legislation which the Rules supplement is preserved. Therefore these Regulations include transitional and saving provision to preserve the operation of the corresponding provision in the Rules for those purposes.

The amendments made by these Regulations to the Family Procedure Rules 2010 are as follows:

*Part of the Amendment  
Rules*

- |         |   |
|---------|---|
| Part 2  | There are omitted or amended definitions of, or other references to, EU instruments, in consequence of the revocation or amendment of those instruments as part of retained EU law. The EU instruments in question are Regulation (EC) No. 2201/2003 (referred to in the Rules as “the Council Regulation” but also known as “Brussels IIa”); Regulation (EC) No. 4/2009 (known as “the Maintenance Regulation”); Regulation (EC) No. 1393/2007 (known as “the Service Regulation”) and Regulation (EU) No. 606/2013 (known as “the Protection Measures Regulation”). They are revoked or amended by the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/494), the Service of Documents and Taking of Evidence in Civil and Commercial Matters (Revocation and Saving Provision) EU Exit) Regulations 2018 (S.I. 2018/1257) and the Mutual Recognition of Protection Measures in Civil Matters (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/493). |
| Part 3A | There is omitted provision referring to the Council Regulation, in consequence of that instrument’s revocation.   |
| Part 5  | There is omitted provision referring to the Maintenance Regulation, in consequence of that instrument’s revocation.   |
| Part 6  | There are omitted provisions relating to litigants providing as an address for service the address of a European lawyer in an EEA State (which fall away on Exit) and provisions relating to service under the Service Regulation, consequential on the revocation of that instrument.  |
| Part 7  | There are omitted provisions in relation to stay of proceedings which operate by reference to provisions of the Council Regulation, in consequence of that instrument’s revocation.   |
| Part 9  | There are omitted provisions governing procedure for proceedings under the Maintenance Regulation, and other references to that Regulation, in consequence of its revocation.   |
| Part 12 | There are omitted provisions governing procedure for proceedings under the Council Regulation, and other references to that Regulation, in  |

consequence of its revocation.

- Part 14 There is omitted a reference to the Service Regulation, in consequence of that instrument's revocation.
- Part 17 There are omitted references to the Maintenance Regulation, in consequence of that instrument's revocation.
- Part 20 There are omitted references to States which are parties to or bound by EU instruments, consequential on the revocation of those instruments.
- Part 21 There is omitted a cross-reference to provisions in Part 35 which are themselves omitted.
- Part 22 There is omitted a cross-reference to provisions in Part 35 which are themselves omitted.
- Part 23 There is omitted a cross-reference to provisions in Part 35 which are themselves omitted.
- Part 24 There are omitted provisions governing procedure for requests under the EU Taking of Evidence Regulation (Regulation (EC) No. 1206/2001), and certain cross-references, in consequence of the revocation of the Taking of Evidence Regulation by the Service of Documents and Taking of Evidence in Civil and Commercial Matters (Revocation and Saving Provision) EU Exit) Regulations 2018. There is also omitted a cross-reference to provisions in Part 35 which are themselves omitted.
- Part 27 There is omitted a reference to provision of "a European regulation" relating to stay of proceedings, in consequence of the revocation of the Council Regulation and Maintenance Regulation.
- Part 31 There are omitted references to the Council Regulation in consequence of its revocation, and provisions relating to other provision based on the Council Regulation which is no longer applicable.
- Part 34 There are omitted provisions governing procedure for proceedings under the Maintenance Regulation, and other references to that Regulation, in consequence of its revocation, and similarly there are omitted provisions relating to maintenance proceedings under the Brussels and Lugano Conventions and the "Brussels I" Regulation, consequential on the revocation of those EU instruments by the Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/479).
- Part 35 Part 35 makes provision for the procedure relating to proceedings under or in relation to the EU Mediation Directive (Directive 2008/52/EC), which will cease to be applicable on Exit; and is revoked accordingly. There are also amendments, and provisions omitted, in relation to the EU Protection Measures Regulation (Regulation (EU) 606/2013),

consequential on the provision made by the Mutual Recognition of Protection Measures in Civil Matters (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/493); and in relation to the EU European Enforcement Orders Regulation (Regulation (EC) No. 805/2004) consequential on the provision made in the European Enforcement Order, European Order for Payment and European Small Claims Procedure (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1311).

Part 38 There are amendments, and provisions omitted, in relation to the EU Protection Measures Regulation (Regulation (EU) 606/2013), consequential on the provision made by the Mutual Recognition of Protection Measures in Civil Matters (Amendment) (EU Exit) Regulations 2019.

The amendments made by these Regulations to the Court of Protection Rules 2017 are as follows.

*Part of the Amendment  
Rules*

Part 6 There are omitted provisions relating to service under the Service Regulation, consequential on the revocation of that instrument.

Part 10 There are omitted references to States which are parties to or bound by EU instruments, consequential on the revocation of those instruments.

Part 14 There are omitted provisions governing procedure for requests under the EU Taking of Evidence Regulation (and certain cross-references), consequential on the revocation of that instrument.

An impact assessment has not been produced for this instrument as it has no or minimal impact on business, the voluntary sector and the public sector.

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